latter's trustee in Bankruptcy, when capable of identification, is well settled. *In re Taft,* 66 C. C. A. 385; *Erie R. R. Co.* v. *Dial,* 72 C. C. A. 183. There is what some courts call a modern tendency to allow recovery if it can be shown that the general fund in the hands of the creditor's trustee has been augmented by the commingling of trust funds with it, the entire fund then being considered a trust fund. *Massey* v. *Fisher,* 62 Fed. 958. *National Bank* v. *Insurance Co.,* 104 U. S. 54. What appears to be the better doctrine, as applied by the federal courts, is that at least some identification of the property must be shown. *American Can Co.* v. *Williams,* 178 Fed. 420. The court in the latter case however, seems to consider that by showing a conversion into, or commingling with, the general fund, a sufficient identification is established, provided that withdrawals have not reduced the general fund to below the amount of the trust fund.

BILLS AND NOTES—NOTICE BY MAIL—PROOF OF MAILING.—A banker testified that he deposited in the post-office, postage prepaid, and mailed the proper notices of dishonor of certain notes. Upon cross-examination, the witness said: "They were mailed by the clerk." Q. "Did you mail them?" A. "Put them with our mail." Q. "Do you know whether they were put into the office of your own knowledge?" A. "I don't." Q. "You don't know who put the mail or carried the mail to the office on either of those days?" A. "I do not." No evidence was offered to show why the clerk was not called as a witness. *Held,* there was sufficient evidence to justify a finding, in the absence of proof that the notices were not received, that they were duly mailed as required by the Negotiable Instruments Law, §§ 4259-4276, Gen. St. 1902. *Central Nat. Bank* v. *Stoddard* (1910), — Conn. —, 76 Atl. 472.

Proof of notice must be strict. A mere probability is not sufficient. *Martinis* v. *Johnston,* 21 N. J. L. 239. *Schoneman* v. *Fegley,* 14 Pa. St. 376. In the main case, the court said that the fact of mailing may be proved by either direct or circumstantial evidence. It is not necessary that a single witness should swear positively that he deposited the notice in the proper place. But all who had anything to do about the matter of depositing the notice should be called. *Commercial Bank* v. *Strong,* 28 Vt. 316. If the person whose duty it was to deposit letters in the post office is not called or his absence accounted for, compliance with the usual custom (*Bell* v. *Hagerstown Bank,* 7 Gill 216) is not fully proved. *Brailsford* v. *Williams,* 15 Md. 150, 74 Am. Dec. 559. This rule was first announced in *Hetherington* v. *Kemp* (1815), 4 Camp. 193. Where the person who deposited the letters testifies either from recollection or invariable custom, the evidence is sufficient. *People* v. *North River Bank,* 17 N. Y. Supp. 200, 62 Hun 484; *Martin* v. *Smith,* 108 Mich. 278, 66 N. W. 61; *Skilbeck* v. *Garbett,* 7 Q. B. (53 E. C. L.) 844; *Commercial Bank* v. *Strong,* supra. And insufficient, where such person does not testify. *Brailsford* v. *Williams,* supra, *Newport Nat. Bank* v. *Tweed,* 4 Houst. 197. See full discussion in *Goucher* v. *Carthage Novelty Co.,* 116 Mo. App. 99, 91 S. W. 447. In the main case, the testimony leaves the letter in the office. There seems to be an essential link missing in the proof of mailing.